

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)

DENNIS HOU, M.D.)

Case No. 800-2018-044104

Physician's and Surgeon's)

Certificate No. A 63030)

Respondent)

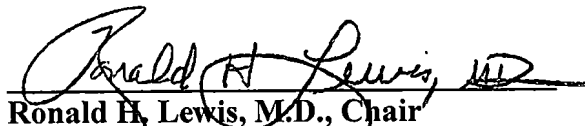
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 21, 2019.

IT IS SO ORDERED: July 22, 2019.

MEDICAL BOARD OF CALIFORNIA



Ronald H. Lewis, M.D., Chair
Panel A

1 XAVIER BECERRA
Attorney General of California
2 MARY CAIN-SIMON
Supervising Deputy Attorney General
3 JOSHUA M. TEMPLET
Deputy Attorney General
4 State Bar No. 267098
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
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Attorneys for Complainant
7

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **DENNIS HOU, M.D.**
14 **276 International Circle**
15 **San Jose CA, 95119**

16 **Physician's and Surgeon's Certificate**
17 **No. A 63030**

18 Respondent.

Case No. 800-2018-044104

OAH No. 2019030197

19 **STIPULATED SETTLEMENT AND**
20 **DISCIPLINARY ORDER**

21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
22 entitled proceedings that the following matters are true:

23 **PARTIES**

24 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
25 of California (Board). She brought this action solely in her official capacity and is represented in
26 this matter by Xavier Becerra, Attorney General of the State of California, via Joshua M.
27 Templet, Deputy Attorney General.

28 2. Respondent Dennis Hou, M.D. (Respondent) is represented in this proceeding by
attorney Albert J. Garcia, 2000 Powell Street, Ste. 1290, Emeryville, CA 94608.

1 3. On July 18, 1997, the Board issued Physician's and Surgeon's Certificate No. A
2 63030 to Dennis Hou, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full
3 force and effect at all times relevant to the charges brought in Accusation No. 800-2018-044104,
4 and will expire on December 31, 2020, unless renewed.

5 **JURISDICTION**

6 4. Accusation No. 800-2018-044104 ("Accusation") was filed before the Board, and is
7 currently pending against Respondent. The Accusation and all other statutorily required
8 documents were properly served on Respondent on February 4, 2019. Respondent timely filed his
9 Notice of Defense contesting the Accusation.

10 5. A copy of the Accusation is attached as **Exhibit A** and incorporated herein.

11 **ADVISEMENT AND WAIVERS**

12 6. Respondent has carefully read, fully discussed with counsel, and understands the
13 charges and allegations in the Accusation. Respondent has also carefully read, fully discussed
14 with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

15 7. Respondent is fully aware of his legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
17 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
18 to the issuance of subpoenas to compel the attendance of witnesses and the production of
19 documents; the right to reconsideration and court review of an adverse decision; and all other
20 rights accorded by the California Administrative Procedure Act and other applicable laws.

21 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
22 every right set forth above.

23 **CULPABILITY**

24 9. Respondent understands and agrees that the charges and allegations in the
25 Accusation, if proven at a hearing, constitute cause for imposing discipline on his Physician's and
26 Surgeon's Certificate.

27 10. For the purpose of resolving the Accusation without the expense and uncertainty of
28 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual

1 basis for the charges in the Accusation and that Respondent hereby gives up his right to contest
2 those charges.

3 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
4 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
5 Disciplinary Order below.

6 **CONTINGENCY**

7 12. This stipulation shall be subject to approval by the Board. Respondent understands
8 and agrees that counsel for Complainant and the staff of the Board may communicate directly
9 with the Board regarding this stipulation and settlement, without notice to or participation by
10 Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he
11 may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board
12 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
13 the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this
14 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
15 be disqualified from further action by having considered this matter.

16 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
17 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
18 signatures thereto, shall have the same force and effect as the originals.

19 14. In consideration of the foregoing admissions and stipulations, the parties agree that
20 the Board may, without further notice or formal proceeding, issue and enter the following
21 Disciplinary Order:

22 **DISCIPLINARY ORDER**

23 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 63030 issued
24 to Respondent Dennis Hou, M.D. is revoked. However, the revocation is stayed and Respondent
25 is placed on probation for three (3) years with the following terms and conditions:

26 1. **CONTROLLED SUBSTANCES - ABSTAIN FROM USE.** Respondent shall abstain
27 completely from the personal use or possession of controlled substances as defined in the
28 California Uniform Controlled Substances Act, dangerous drugs as defined by Business and

1 Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not
2 apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide
3 illness or condition.

4 Within 15 calendar days of receiving any lawfully prescribed medications, Respondent
5 shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone
6 number; medication name, strength, and quantity; and issuing pharmacy name, address, and
7 telephone number.

8 2. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from the
9 use of products or beverages containing alcohol.

10 3. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7)
11 days of the effective date of this Decision, Respondent shall provide to the Board the names,
12 physical addresses, mailing addresses, and telephone numbers of any and all employers and
13 supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's
14 worksite monitor, and Respondent's employers and supervisors to communicate regarding
15 Respondent's work status, performance, and monitoring.

16 For purposes of this section, "supervisors" shall include the Chief of Staff and Health or
17 Well Being Committee Chair, or equivalent, if applicable, when Respondent has medical staff
18 privileges.

19 4. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to
20 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.
21 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair
22 follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall
23 make daily contact with the Board or its designee to determine whether biological fluid testing is
24 required. Respondent shall be tested on the date of the notification as directed by the Board or its
25 designee. The Board may order Respondent to undergo a biological fluid test on any day, at any
26 time, including weekends and holidays. Except when testing on a specific date as ordered by the
27 Board or its designee, the scheduling of biological fluid testing shall be done on a random basis.
28 The cost of biological fluid testing shall be borne by Respondent.

1 During the first year of probation and for the duration of the probationary term, up to five
2 (5) years, Respondent shall be subject to 36 to 104 random tests per year. Only if there has been
3 no positive biological fluid tests in the previous five (5) consecutive years of probation, may
4 testing be reduced to one (1) time per month. Nothing precludes the Board from increasing the
5 number of random tests to the standard, first-year level of frequency of 52 to 104 random tests per
6 year, for any reason.

7 Prior to practicing medicine, Respondent shall contract with a laboratory or service,
8 approved in advance by the Board or its designee that will conduct random, unannounced,
9 observed, biological fluid testing and meets all of the following standards:

10 (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry
11 Association or have completed the training required to serve as a collector for the United
12 States Department of Transportation.

13 (b) Its specimen collectors conform to the current United States Department of
14 Transportation Specimen Collection Guidelines.

15 (c) Its testing locations comply with the Urine Specimen Collection Guidelines published
16 by the United States Department of Transportation without regard to the type of test
17 administered.

18 (d) Its specimen collectors observe the collection of testing specimens.

19 (e) Its laboratories are certified and accredited by the United States Department of Health
20 and Human Services.

21 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day
22 of receipt and all specimens collected shall be handled pursuant to chain of custody
23 procedures. The laboratory shall process and analyze the specimens and provide legally
24 defensible test results to the Board within seven (7) business days of receipt of the
25 specimen. The Board will be notified of non-negative results within one (1) business day
26 and will be notified of negative test results within seven (7) business days.

27 (g) Its testing locations possess all the materials, equipment, and technical expertise
28 necessary in order to test Respondent on any day of the week.

1 (h) Its testing locations are able to scientifically test for urine, blood, and hair specimens for
2 the detection of alcohol and illegal and controlled substances.

3 (i) It maintains testing sites located throughout California.

4 (j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line
5 computer database that allows the Respondent to check in daily for testing.

6 (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff
7 access to drug test results and compliance reporting information that is available 24 hours a
8 day.

9 (l) It employs or contracts with toxicologists that are licensed physicians and have
10 knowledge of substance abuse disorders and the appropriate medical training to interpret
11 and evaluate laboratory biological fluid test results, medical histories, and any other
12 information relevant to biomedical information.

13 (m) It will not consider a toxicology screen to be negative if a positive result is obtained
14 while practicing, even if the Respondent holds a valid prescription for the substance.

15 Prior to changing testing locations for any reason, including during vacation or other travel,
16 alternative testing locations must be approved by the Board and meet the requirements above.

17 The contract shall require that the laboratory directly notify the Board or its designee of
18 non-negative results within one (1) business day and negative test results within seven (7)
19 business days of the results becoming available. Respondent shall maintain this laboratory or
20 service contract during the period of probation.

21 A certified copy of any laboratory test result may be received in evidence in any
22 proceedings between the Board and Respondent.

23 If a biological fluid test result indicates Respondent has used, consumed, ingested, or
24 administered to himself or herself a prohibited substance, the Board shall order Respondent to
25 cease practice and instruct Respondent to leave any place of work where Respondent is practicing
26 medicine or providing medical services. The Board shall immediately notify all of Respondent's
27 employers, supervisors and work monitors, if any, that Respondent may not practice medicine or
28 provide medical services while the cease-practice order is in effect.

1 A biological fluid test will not be considered negative if a positive result is obtained while
2 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited
3 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

4 After the issuance of a cease-practice order, the Board shall determine whether the positive
5 biological fluid test is in fact evidence of prohibited substance use by consulting with the
6 specimen collector and the laboratory, communicating with the licensee, his or her treating
7 physician(s), other health care provider, or group facilitator, as applicable.

8 For purposes of this condition, the terms "biological fluid testing" and "testing" mean the
9 acquisition and chemical analysis of Respondent's urine, blood, breath, or hair.

10 For purposes of this condition, the term "prohibited substance" means an illegal drug, a
11 lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by
12 Respondent and approved by the Board, alcohol, or any other substance Respondent has been
13 instructed by the Board not to use, consume, ingest, or administer to himself or herself.

14 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited
15 substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the
16 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to
17 any other terms or conditions the Board determines are necessary for public protection or to
18 enhance Respondent's rehabilitation.

19 5. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE. Within thirty
20 (30) calendar days of the effective date of this Decision, Respondent shall submit to the Board or
21 its designee for prior approval as a worksite monitor, the name and qualifications of one or more
22 licensed physician and surgeon, other licensed health care professional if no physician and
23 surgeon is available, or, as approved by the Board or its designee, a person in a position of
24 authority who is capable of monitoring Respondent at work.

25 The worksite monitor shall not have a current or former financial, personal, or familial
26 relationship with Respondent, or any other relationship that could reasonably be expected to
27 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its
28 designee. If it is impractical for anyone but Respondent's employer to serve as the worksite

1 monitor, this requirement may be waived by the Board or its designee, however, under no
2 circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

3 The worksite monitor shall have an active unrestricted license with no disciplinary action
4 within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms
5 and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth
6 by the Board or its designee.

7 Respondent shall pay all worksite monitoring costs.

8 The worksite monitor shall have face-to-face contact with Respondent in the work
9 environment on as frequent a basis as determined by the Board or its designee, but not less than
10 once per week; interview other staff in the office regarding Respondent's behavior, if requested
11 by the Board or its designee; and review Respondent's work attendance.

12 The worksite monitor shall verbally report any suspected substance abuse to the Board and
13 Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected
14 substance abuse does not occur during the Board's normal business hours, the verbal report shall
15 be made to the Board or its designee within one (1) hour of the next business day. A written
16 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and
17 any other information deemed important by the worksite monitor shall be submitted to the Board
18 or its designee within 48 hours of the occurrence.

19 The worksite monitor shall complete and submit a written report monthly or as directed by
20 the Board or its designee which shall include the following: (1) Respondent's name and
21 Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3)
22 the worksite monitor's license number, if applicable; (4) the location or location(s) of the
23 worksite; (5) the dates Respondent had face-to-face contact with the worksite monitor; (6) the
24 names of worksite staff interviewed, if applicable; (7) a report of Respondent's work attendance;
25 (8) any change in Respondent's behavior and/or personal habits; and (9) any indicators that can
26 lead to suspected substance abuse by Respondent. Respondent shall complete any required
27 consent forms and execute agreements with the approved worksite monitor and the Board, or its
28 designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

1 If the worksite monitor resigns or is no longer available, Respondent shall, within five (5)
2 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior
3 approval, the name and qualifications of a replacement monitor who will be assuming that
4 responsibility within fifteen (15) calendar days. If Respondent fails to obtain approval of a
5 replacement monitor within sixty (60) calendar days of the resignation or unavailability of the
6 monitor, Respondent shall receive a notification from the Board or its designee to cease the
7 practice of medicine within three (3) calendar days after being so notified. Respondent shall cease
8 the practice of medicine until a replacement monitor is approved and assumes monitoring
9 responsibility.

10 6. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING
11 LICENSEES . Failure to fully comply with any term or condition of probation is a violation of
12 probation.

13 A. If Respondent commits a major violation of probation as defined by section
14 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take
15 one or more of the following actions:

16 (1) Issue an immediate cease-practice order and order Respondent to undergo a clinical
17 diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of
18 Title 16 of the California Code of Regulations, at Respondent's expense. The cease-practice order
19 issued by the Board or its designee shall state that Respondent must test negative for at least a
20 month of continuous biological fluid testing before being allowed to resume practice. For
21 purposes of determining the length of time Respondent must test negative while undergoing
22 continuous biological fluid testing following issuance of a cease-practice order, a month is
23 defined as thirty calendar (30) days. Respondent may not resume the practice of medicine until
24 notified in writing by the Board or its designee that he or she may do so.

25 (2) Increase the frequency of biological fluid testing.

26 (3) Refer Respondent for further disciplinary action, such as suspension, revocation, or
27 other action as determined by the Board or its designee.

28 B. If Respondent commits a minor violation of probation as defined by section

1 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take
2 one or more of the following actions:

- 3 (1) Issue a cease-practice order;
- 4 (2) Order practice limitations;
- 5 (3) Order or increase supervision of Respondent;
- 6 (4) Order increased documentation;
- 7 (5) Issue a citation and fine, or a warning letter;
- 8 (6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in
9 accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of
10 Regulations, at Respondent's expense;
- 11 (7) Take any other action as determined by the Board or its designee.

12 C. Nothing in this Decision shall be considered a limitation on the Board's authority
13 to revoke Respondent's probation if he or she has violated any term or condition of probation. If
14 Respondent violates probation in any respect, the Board, after giving Respondent notice and the
15 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
16 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed
17 against Respondent during probation, the Board shall have continuing jurisdiction until the matter
18 is final, and the period of probation shall be extended until the matter is final.

19 7. NOTIFICATION. Within seven (7) days of the effective date of this Decision,
20 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
21 Chief Executive Officer at every hospital where privileges or membership are extended to
22 Respondent, at any other facility where Respondent engages in the practice of medicine,
23 including all physician and locum tenens registries or other similar agencies, and to the Chief
24 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
25 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
26 calendar days.

27 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

28 8. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules

governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

9. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

10. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event Respondent should leave the State of California to reside or to practice

1 ,Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
2 departure and return.

3 11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
4 available in person upon request for interviews either at Respondent's place of business or at the
5 probation unit office, with or without prior notice throughout the term of probation.

6 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
7 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
8 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
9 defined as any period of time Respondent is not practicing medicine as defined in Business and
10 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
11 patient care, clinical activity or teaching, or other activity as approved by the Board. If
12 Respondent resides in California and is considered to be in non-practice, Respondent shall
13 comply with all terms and conditions of probation. All time spent in an intensive training program
14 which has been approved by the Board or its designee shall not be considered non-practice and
15 does not relieve Respondent from complying with all the terms and conditions of probation.
16 Practicing medicine in another state of the United States or federal jurisdiction while on probation
17 with the medical licensing authority of that state or jurisdiction shall not be considered non-
18 practice. A Board-ordered suspension of practice shall not be considered as a period of non-
19 practice.

20 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
21 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
22 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
23 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
24 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

25 Respondent's period of non-practice while on probation shall not exceed two (2) years.

26 Periods of non-practice will not apply to the reduction of the probationary term.

27 Periods of non-practice for a respondent residing outside of California will relieve
28 Respondent of the responsibility to comply with the probationary terms and conditions with the

1 exception of this condition and the following terms and conditions of probation: Obey All Laws;
2 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
3 Controlled Substances; and Biological Fluid Testing..

4 13. COMPLETION OF PROBATION. Respondent shall comply with all financial
5 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
6 completion of probation. Upon successful completion of probation, Respondent's certificate shall
7 be fully restored.

8 14. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
9 of probation is a violation of probation. If Respondent violates probation in any respect, the
10 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
11 carry out the disciplinary order that was stayed. If an Accusation, Petition to Revoke Probation, or
12 Petition for Interim Suspension Order is filed against Respondent during probation, the Board
13 shall have continuing jurisdiction until the matter is final, and the period of probation shall be
14 extended until the matter is final.

15 15. LICENSE SURRENDER. Following the effective date of this Decision, if
16 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
17 the terms and conditions of probation, Respondent may request to surrender his or her license.
18 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
19 determining whether or not to grant the request, or to take any other action deemed appropriate
20 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
21 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
22 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
23 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
24 application shall be treated as a petition for reinstatement of a revoked certificate.

25 16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
26 with probation monitoring each and every year of probation, as designated by the Board, which
27 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
28 California and delivered to the Board or its designee no later than January 31 of each calendar

1 **ACCEPTANCE**

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Albert J. Garcia. I understand the stipulation and the effect it will
4 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
5 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Medical Board of California.

7
8 DATED: 6/13/19


9 DENNIS HOU, M.D.
Respondent

10 I have read and fully discussed with Respondent Dennis Hou, M.D. the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.

13 DATED: June 12, 2019


14 ALBERT J. GARCIA
Attorney for Respondent

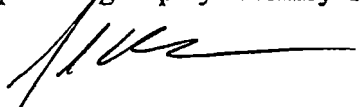
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16 **ENDORSEMENT**

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the Medical Board of California.

19
20 DATED: 6/17/2019

Respectfully submitted,

21 XAVIER BECERRA
Attorney General of California
22 MARY CAIN-SIMON
Supervising Deputy Attorney General


23 JOSHUA M. TEMPLET
24 Deputy Attorney General
25 Attorneys for Complainant

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27 SF2018201925
28 21492216.docx

Exhibit A

Accusation No. 800-2018-044104

1 XAVIER BECERRA
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2 MARY CAIN-SIMON
Supervising Deputy Attorney General
3 JOSHUA M. TEMPLET
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO February 4 20 19
BY K. Voong ANALYST

8
9 **BEFORE THE**
10 **MEDICAL BOARD OF CALIFORNIA**
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12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 800-2018-044104

14 **Dennis Hou, M.D.**
15 **276 International Circle**
San Jose, CA 95119

ACCUSATION

16 **Physician's and Surgeon's Certificate**
17 **No. A 63030**

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
23 capacity as the Executive Director of the Medical Board of California, Department of Consumer
24 Affairs (Board).

25 2. On or about July 18, 1997, the Board issued Physician's and Surgeon's Certificate
26 Number A 63030 to Dennis Hou, M.D. (Respondent). The certificate was in full force and effect
27 at all times relevant to the charges brought herein and will expire on December 31, 2020, unless
28 renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2004 of the Code provides that the Board shall have the responsibility for the enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

5. Section 2227 of the Code authorizes the Board to take action against a licensee who has been found guilty under the Medical Practice Act by revoking his or her license, suspending the license for a period not to exceed one year, placing the license on probation and requiring payment of costs of probation monitoring, or taking such other action as the Board deems proper.

6. Section 2234 of the Code states, in part:

The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

...

7. Section 2236 of the Code states:

(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

...

(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred.

8. Section 2239 of the Code states:

(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

1 (b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is
2 deemed to be a conviction within the meaning of this section. The Division of
3 Medical Quality may order discipline of the licensee in accordance with Section
4 2227 or the Division of Licensing may order the denial of the license when the time
5 for appeal has elapsed or the judgment of conviction has been affirmed on appeal or
6 when an order granting probation is made suspending imposition of sentence,
7 irrespective of a subsequent order under the provisions of Section 1203.4 of the
8 Penal Code allowing such person to withdraw his or her plea of guilty and to enter a
9 plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
10 complaint, information, or indictment.

11 9. California Code of Regulations, title 16, section 1360, states:

12 For the purposes of denial, suspension or revocation of a license, certificate or
13 permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime
14 or act shall be considered to be substantially related to the qualifications, functions
15 or duties of a person holding a license, certificate or permit under the Medical
16 Practice Act if to a substantial degree it evidences present or potential unfitness of a
17 person holding a license, certificate or permit to perform the functions authorized by
18 the license, certificate or permit in a manner consistent with the public health, safety
19 or welfare. Such crimes or acts shall include but not be limited to the following:
20 Violating or attempting to violate, directly or indirectly, or assisting in or abetting
21 the violation of, or conspiring to violate any provision of the Medical Practice Act.

22 10. Section 802.1 of the Code states:

23 (a)(1) A physician and surgeon, osteopathic physician and surgeon, a doctor of
24 podiatric medicine, and a physician assistant shall report either of the following to
25 the entity that issued his or her license:

26 (A) The bringing of an indictment or information charging a felony against the
27 licensee.

28 (B) The conviction of the licensee, including any verdict of guilty, or plea of guilty
or no contest, of any felony or misdemeanor.

(2) The report required by this subdivision shall be made in writing within 30 days
of the date of the bringing of the indictment or information or of the conviction.

(b) Failure to make a report required by this section shall be a public offense
punishable by a fine not to exceed five thousand dollars (\$5,000).

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Dangerous Use of Alcohol and DUI Conviction)

11. On Monday November 14, 2016, at approximately 11:00 p.m., the Hillsborough
Police Department dispatched officers to respond to an abandoned car along a road, with its
hazard lights on. The police later determined that the car had crossed over the double row of Botts

1 dots dividing the road's opposing lanes of traffic, before crashing into a telephone pole. The car
2 then travelled another 990 feet, crossing both lanes of traffic several times, before coming to a
3 rest.

4 12. A police dispatcher determined that Respondent was the registered owner of the car
5 and reached him on the phone, at his home. The police later learned from Respondent that he had
6 been driving the car at the time of the collision. Following the collision, he left his car and walked
7 home. At the request of the police, Respondent returned to his car, where the police were waiting
8 for him. When asked about the cause of the collision, Respondent stated that he had been tired,
9 had fallen asleep, and did not recall the collision. Respondent reported that he had been driving
10 from San Mateo to his home in Hillsborough.

11 13. Respondent displayed objective signs of intoxication and his performance during a
12 series of field sobriety tests was consistent with alcohol impairment. Preliminary alcohol
13 screening tests showed Respondent's blood alcohol content (BAC) to have been 0.164% at 11:49
14 p.m. and 0.165% at 11:52 p.m.

15 14. The officers arrested Respondent for driving under the influence of alcohol. Analysis
16 of a sample of Respondent's blood showed that his BAC that evening had been 0.173%.

17 15. On January 13, 2017, the San Mateo County District Attorney's Office filed a
18 criminal complaint in San Mateo County Superior Court, Case No. 17-NM-000538-A, charging
19 Respondent with violating Vehicle Code sections 23152(a) (driving while under the influence of
20 alcohol), 23152(b) (driving with a blood alcohol content of 0.08 percent or more), and 20002(a)
21 (hit and run driving resulting in property damage). The complaint also included a special
22 allegation that Respondent's BAC was 0.15 percent or greater, within the meaning of Vehicle
23 Code section 23578.

24 16. On April 17, 2017, Respondent pleaded no contest to violating Vehicle Code section
25 23152(b) (driving with a blood alcohol content of 0.08 percent or more). The court sentenced
26 Respondent to two days of jail and three years of court probation. The court also ordered
27 Respondent to pay various fines and to complete the First Offender DUI Program.
28

1 17. Respondent drove his car while under the influence of an excessive amount of alcohol
2 in a manner dangerous to himself and others, in violation of Code section 2239 (dangerous use of
3 alcohol) and section 2234 (unprofessional conduct).

4 18. Respondent's April 17, 2017 criminal conviction for driving with a blood alcohol
5 content greater than 0.08% is substantially related to the qualifications, functions, and duties of a
6 physician and surgeon. As such, his conviction constitutes a violation of Code section 2236
7 (criminal conviction) and section 2234 (unprofessional conduct).

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Failure to Timely Report Misdemeanor Conviction)**

10 19. Respondent failed to timely report his misdemeanor conviction to the Board within 30
11 days, as required by Code section 802.1. Respondent's failure to timely report his conviction
12 constitutes a violation of Code section 802.1 and section 2234 (unprofessional conduct).

13 **PRAYER**

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
15 and that following the hearing, the Medical Board of California issue a decision:

16 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 63030,
17 issued to Respondent;

18 2. Revoking, suspending, or denying approval of Respondent's authority to supervise
19 physician assistants and advanced practice nurses;

20 3. Ordering Respondent, if placed on probation, to pay the Board the costs of probation
21 monitoring; and

22 4. Taking such other and further action as deemed necessary and proper.

23 DATED:
24 February 4, 2019


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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